



UNITED STATES PATENT AND TRADEMARK OFFICE

MAY - 6 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of:
Catherine Guenther
Serial No.: 09/895,840
Filed: June 28, 2001
Attorney Docket No.: R-409

DECISION ON PETITION TO
WITHDRAW THE HOLDING
OF ABANDONMENT

This is in response to applicant's petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on March 4, 2005, requesting withdrawal of the holding of abandonment of the above-identified application based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a first Office action, setting a three-month statutory time period for reply, to applicants on April 20, 2004. On December 28, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that the Office action of April 20, 2004 was never received and provides as evidence thereof a copy of the attorney docket report where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment mailed December 28, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicant's petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600